



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Office of the Secretary of State, Elections Division

- ☒ Preproposal Statement of Inquiry was filed as WSR 08-02-073 ; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

The Top Two Primary (Initiative 872), certification of election administrators, administering elections, and voter registration.

Hearing location(s):

Office of the Secretary of State, Elections Division
520 Union Ave. S.E.
Olympia, WA

Date: July 8, 2008 Time: 10:00 am

Submit written comments to:

Katie Blinn
P.O. Box 40220
Olympia, WA 98504-0220
e-mail kblinn@secstate.wa.gov
fax (360) 586-5629 by (date) July 8, 2008

Assistance for persons with disabilities: Contact

Katie Blinn by June 7, 2008

TTY (800) 422-8683 or () _____

Date of intended adoption: July 10, 2008

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rules implement Initiative 872 (Top Two Primary), for partisan public office, and address elections for political party precinct committee officers and President and Vice President in the context of Initiative 872. The proposed rules also address absentee ballots, certification of election administrators, instructions for correcting a vote, recounts, and notices to voters.

The following existing rules are amended: 434-208-060, 434-215-012, 434-215-020, 434-215-025, 434-230-010, 434-230-060, 434-250-110, 434-250-040, 434-250-050, 434-250-310, 434-253-020, 434-253-025, 434-260-235, 434-261-086, 434-262-031, 434-262-160, 434-324-113, 434-335-040, 434-335-445, and 434-381-120.

The following existing rules are repealed: 434-220-010, 434-220-020, 434-220-030, 434-220-040, 434-220-050, 434-220-060, 434-220-070, 434-220-080, 434-220-090, 434-230-020, 434-230-040, 434-230-050, 434-230-080, 434-230-150, 434-230-160, 434-230-170, 434-230-190, 434-230-200, 434-230-210, and 434-230-220.

Reasons supporting proposal:

The March 18, 2008 United States Supreme Court opinion upholding Initiative 872; consistency and clarification of the process for absentee ballots, certification of election administrators, determining voter intent, recounts, and sending notices to voters.

Statutory authority for adoption: RCW 29A.04.611 and RCW 29A.24.030**Statute being implemented:** RCW 29A.04.110, 29A.04.127, 29A.04.206, 29A.04.530, 29A.08.605, 29A.24.030, 29A.24.210, 29A.32.032, 29A.36.010, 29A.36.170, 29A.40.110, 29A.52.010, 29A.52.112, 29A.80.010, and 42.12.040.**Is rule necessary because of a:**

- Federal Law? ☒ Yes ☐ No
Federal Court Decision? ☒ Yes ☐ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION: 42 U.S.C. §1973gg-6(c)(2)(A).
Wash. State Grange v. Wash. State Republican Party, 552 U.S. ___, 128 S. Ct. 1184, 170 L. Ed. 2d 151 (2008).

DATE
June 3, 2008**NAME** Steve Excell**SIGNATURE****TITLE** Assistant Secretary of State**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 02, 2008**TIME:** 2:24 PM**WSR 08-12-063**

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Many of the proposed rules implementing Initiative 872 have been adopted as emergency rules under WSR 08-10-010, WSR 08-10-055, and WSR 08-12-013.

Name of proponent: (person or organization)

Office of the Secretary of State, Elections Division

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting Katie Blinn	P.O. Box 40220, Olympia, WA 98504-0220	(360) 902-4168
Implementation Katie Blinn	P.O. Box 40220, Olympia, WA 98504-0220	(360) 902-4168
Enforcement Katie Blinn	P.O. Box 40220, Olympia, WA 98504-0220	(360) 902-4168

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

Not applicable.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain:

Not applicable.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-208-060 Electronic filings. In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents:

(1) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(2) Any minor party or independent candidate filing material for president and vice-president, except nominating petitions;

(3) Lists of presidential electors selected by political parties or independent candidates;

(4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot;

(5) Resolutions from cities, towns, and other districts calling for a special election;

(6) ~~((Filling of vacancies on the ticket by a major political party;~~

~~(7)))~~ Voter registration form.

NEW SECTION

WAC 434-208-110 Applicable dates and deadlines. If dates, deadlines, and time periods referenced in chapter 2, Laws of 2005, conflict with subsequently enacted law, such as chapter 344, Laws of 2006, the subsequently enacted law is effective.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06,
effective 7/29/06)

**WAC 434-215-012 Declaration of candidacy--Offices subject to
a primary.** Declarations of candidacy (~~for all partisan and
nonpartisan offices~~) filed either in person or by mail shall be in
substantially the following form:

((STRICKEN GRAPHIC_____

FILING DATA . . . FOR OFFICE USE ONLY

Date _____	Fee Paid \$ _____	File No. _____	Office Code _____
<input type="checkbox"/> Check	<input type="checkbox"/> Debit/Credit	Voter Registration # _____	Clerk Initials _____
<input type="checkbox"/> Cash	<input type="checkbox"/> Filing Fee Petition		

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____
(STREET ADDRESS OR RURAL ROUTE) (CITY) (COUNTY) (ZIP CODE)

(MAILING ADDRESS) (CITY) (COUNTY) (ZIP CODE)

(TELEPHONE NUMBER) (EMAIL ADDRESS)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for the office of:

(NAME OF OFFICE)

(CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

(POSITION NUMBER IF APPLICABLE) (DIRECTOR OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:
☐ A full term or a full term and a short term, or
☐ An unexpired term

5. This office is:
☐ Nonpartisan, or
☐ Partisan, and I am (check one): ☐ a candidate of the _____ party, or
☐ an independent candidate.

6. Filing Fee (check one):
☐ There is no filing fee because the office has no fixed annual salary, or
☐ I am submitting a filing fee of \$10 because the fixed annual salary of the office is \$1,000 or less, or
☐ I am submitting a filing fee of \$_____, an amount equal to 1% of the annual salary, or
☐ I am without sufficient assets or income to pay the filing fee required by law and I have attached a filing fee petition in lieu of this fee, pursuant to RCW 29A.24.091.

7. Please print my name on the ballot **exactly** as follows: _____
(PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed.

8. Sign Here X

(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

STATE OF WASHINGTON, COUNTY OF _____

SIGNED OR ATTESTED BEFORE ME ON _____
(DATE)

by _____
(CANDIDATE)

(SIGNATURE OF NOTARY)

(TITLE)

MY APPOINTMENT EXPIRES _____

(SEAL OR STAMP)

SSE 84-1 (2006)

Candidate: Return all copies of this declaration to your Elections Dept.
Distribution by Elections Dept: White—County; Yellow—PDC; Pink—Candidate

STRICKEN GRAPHIC))

FOR OFFICE USE ONLY			
Date _____	Fee Paid \$ _____	Filing No. _____	Office Code _____
<input type="checkbox"/> Check	<input type="checkbox"/> Debit/Credit	Voter Registration # _____	
<input type="checkbox"/> Cash	<input type="checkbox"/> Filing Fee Petition	Clerk Initials _____	

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:

(PRINT NAME AS YOU ARE REGISTERED TO VOTE)
2. _____

(STREET ADDRESS OR RURAL ROUTE)
(CITY)
(COUNTY)
(ZIP)

and, at the time of filing this declaration, I am legally qualified to assume office if elected.
3. My campaign contact information is:

_____ (MAILING ADDRESS)
_____ (CITY)
_____ (STATE)
_____ (ZIP)

_____ (TELEPHONE NUMBER)
_____ (EMAIL ADDRESS)
4. I declare myself as a candidate for the office of:

_____ (NAME OF OFFICE including DISTRICT or POSITION NUMBER)

_____ (CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)
5. Filing Fee (check one):

☐ There is no filing fee because the office has no fixed annual salary;
☐ I am submitting a filing fee of \$10 because the fixed annual salary of the office is \$1,000 or less;
☐ I am submitting a filing fee of \$_____, an amount equal to 1% of the annual salary; or
☐ I am without sufficient assets or income to pay the filing fee and am submitting a filing fee petition in lieu of this fee.
6. Please print my name on the ballot exactly as follows: _____

(PLEASE PRINT)
7. If the office is partisan, your party preference, if any, will be printed on the ballot exactly as follows:

☐ (Prefers Party) or
☐ (States No Party Preference)

If you fail to check a box or provide a party name, "(States No Party Preference)" will be printed.

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to by a notary public or by the officer with whom the declaration is filed.

8. Sign Here X _____

(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

STATE OF WASHINGTON, COUNTY OF _____

(SEAL OR STAMP)

Signed or Attested before me on _____

(DATE)

by _____

(CANDIDATE)

(SIGNATURE OF NOTARY)

(TITLE)

MY APPOINTMENT EXPIRES: _____

Candidate: Return all copies to your Elections Dept.
 Distribution: White—County; Yellow—PDC; Pink—Candidate

~~((The form shall measure eight and one-half inches by eleven inches and be printed on paper stock of good quality. The form shall also contain space for recording the date and time of filing and a sequential filing and receipt number. One copy of the form or an electronic file, in a format approved by the secretary of state and~~

~~acceptable to the public disclosure commission, containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be forwarded to the public disclosure commission as required by RCW 29A.24.070, and one copy of the form or an electronic file containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be returned to the candidate.))~~ The filing officer must provide a paper or electronic copy of the filed declaration of candidacy to the candidate and to the public disclosure commission.

AMENDATORY SECTION (Amending WSR 07-09-035, filed 4/11/07, effective 5/12/07)

WAC 434-215-020 Declaration of candidacy--Precinct committee officer. Declarations of candidacy for the ((office)) position of precinct committee officer((7)) shall be filed in substantially the following form:

((STRICKEN GRAPHIC))

Filing Data For Office Use Only

Date _____	Fee Paid \$ _____	Filing No. _____	Precinct # _____
Paid By (check one)			
<input type="checkbox"/> Check	<input type="checkbox"/> Cash	<input type="checkbox"/> Other	Clerk/Cashier Initials _____ Voter Registration # _____

DECLARATION OF CANDIDACY PRECINCT COMMITTEE OFFICER

I, _____, declare that I am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

(STREET ADDRESS OR RURAL ROUTE) (CITY) (COUNTY) WA (ZIP CODE)

(MAILING ADDRESS) (CITY) (COUNTY) WA (ZIP CODE)

(TELEPHONE NUMBER) (EMAIL ADDRESS)

that, at the time of filing this declaration, I am a registered voter in _____ precinct and that I am legally qualified to assume office if elected; that I hereby declare myself a candidate for the office of Precinct Committee Officer to be elected at the Primary Election, and hereby request that my name be printed upon the official Primary Election ballot as a candidate of the _____ party, and:

I am submitting the sum of one dollar, the fee required by RCW 29A.24.091.

Please print my name on the ballot **exactly** as follows: _____

Further, I declare, under penalty of perjury, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

X

(SIGNATURE OF CANDIDATE)

(DATE)

STRICKEN GRAPHIC))

<u>Filing Data</u>		<u>For Office Use Only</u>	
Date _____	Fee Paid \$ _____	Filing No. _____	Precinct # _____
Paid by: <input type="checkbox"/> Check <input type="checkbox"/> Cash	Staff Initials _____	Voter Registration ID _____	

**DECLARATION OF CANDIDACY
PRECINCT COMMITTEE OFFICER**

1. I, _____, declare that I am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

 (STREET ADDRESS OR RURAL ROUTE) (CITY) WA (ZIP)

that I am a registered voter in _____ precinct, that I declare myself a candidate for the position of Precinct Committee Officer for the _____ Party, (DEMOCRATIC / REPUBLICAN) to be elected at the Primary Election, and I am paying the filing fee of one dollar required by RCW 29A.24.091.

Further, I declare, under penalty of perjury, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

X _____
(SIGNATURE OF CANDIDATE) (DATE)

Contact Information: _____
(TELEPHONE NUMBER) (EMAIL ADDRESS)

(MAILING ADDRESS, IF DIFFERENT FROM RESIDENTIAL ADDRESS)

2. Please print my name on the ballot exactly as follows:

4/16/08

~~((The forms shall measure eight and one-half inches by eleven inches and be printed on paper stock of good quality. The form may also contain space for recording the date and time of filing, a receipt number, if applicable, and a sequential filing number.))~~
County auditors may design and use a declaration of candidacy

different in form and style from that specified by this rule as long as it contains all of the information required by this rule.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-215-025 ((~~Declaration of candidacy~~)) Filing fee petitions. (1) When a candidate submits a filing fee petition in lieu of his or her filing fee, as authorized by RCW 29A.24.091, voters eligible to vote on the office in the general election are eligible to sign the candidate's filing fee petition.

(2) The filing fee petition described in RCW 29A.24.101(3) does not apply. The filing fee petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140; followed by:

"We, the undersigned registered voters of [the jurisdiction of the office], hereby petition that [candidate's] name be printed on the ballot for the office of [office for which candidate is filing a declaration of candidacy]."

NEW SECTION

WAC 434-215-120 Political party preference by candidate for partisan office. (1) On a declaration of candidacy, a candidate for partisan congressional, state, or county office may state his or her preference for a political party, or not state a preference. The candidate may use up to sixteen characters for the name of the political party. A candidate's party preference, or the fact that the candidate states no preference, must be printed with the candidate's name on the ballot and in any voters' pamphlets printed by the office of the secretary of state or a county auditor's office.

(2) If a candidate does not indicate a party that he or she prefers, then the candidate has stated no party preference and is listed as such on the ballot and in any voters' pamphlets.

(3) The filing officer may not print on the ballots, in a voters' pamphlet, or other election materials a political party name that is obscene. If the name of the political party provided by the candidate would be considered obscene, the filing officer may petition the superior court pursuant to RCW 29A.68.011 for a judicial determination that the party name be edited to remove the obscenity, or rejected and replaced with "states no party preference."

(4) A candidate's preference may not imply that the candidate

is nominated or endorsed by the party, or that the party approves of or associates with that candidate. If the name of the political party provided by the candidate implies that the candidate is nominated or endorsed by a political party, or that a political party approves of or associates with that candidate, the filing officer may petition the superior court pursuant to RCW 29A.68.011 for a judicial determination that the party name be edited, or rejected and replaced with "states no party preference."

NEW SECTION

WAC 434-215-130 Minor political party candidates and independent candidates. (1) In the election system enacted as chapter 2, Laws of 2005, there is no distinction between major party candidates, minor party candidates, or independent candidates filing for partisan congressional, state, or county office. All candidates filing for these partisan offices have the same filing and qualifying requirements. All candidates for partisan office have the option of stating on the ballot their preference for a political party, or stating no party preference. The party preference information plays no role in determining how candidates are elected to public office.

(2) The requirements in RCW 29A.20.111 through 29A.20.201 for minor political party candidates and independent candidates for partisan office to conduct nominating conventions and collect a sufficient number of signatures of registered voters do not apply to candidates filing for partisan congressional, state, or county office. The requirements in RCW 29A.20.111 through 29A.20.201 for minor political party candidates and independent candidates only apply to candidates for president and vice-president of the United States.

NEW SECTION

WAC 434-215-140 Voids in candidacy and vacancies in office. (1) The procedures established in RCW 29A.24.141 through 29A.24.191 for reopening candidate filing due to a void in candidacy or a vacancy in office apply to partisan congressional, state, or county office.

(2) As established in RCW 29A.24.141, a void in candidacy only occurs when no valid declaration of candidacy has been filed, or all persons who filed have either died or been disqualified. There is no void in candidacy as long as there is at least one candidate.

(3) If dates, deadlines, and time periods referenced in

chapter 2, Laws of 2005, conflict with subsequently enacted law, such as chapter 344, Laws of 2006, the subsequently enacted law is effective.

NEW SECTION

WAC 434-215-150 No major party ticket. The procedures in RCW 29A.28.011 allowing a major party to fill a vacancy on a major party ticket do not apply. The predecessor statute, RCW 29A.28.010, was repealed by chapter 2, Laws of 2005 (Initiative 872). Pursuant to chapter 2, Laws of 2005, there is no "major party ticket."

NEW SECTION

WAC 434-215-160 Ranked choice voting. If a charter county elects candidates for county office by ranked choice voting, and if the charter specifically grants political parties the authority to determine which candidates for partisan office may run as candidates of the party, the county auditor may modify the requirements of this chapter in order to accommodate the requirements of a ranked choice voting election.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-220-010	Partisan primaries.
WAC 434-220-020	Definitions.
WAC 434-220-030	Ballot layout and color-- Consolidated ballots.
WAC 434-220-040	Ballot layout and color--Physically separate ballots.
WAC 434-220-050	Order of political parties.
WAC 434-220-060	Ballot programming--Consolidated ballots.
WAC 434-220-070	Polling place procedures-- Physically separate ballots.
WAC 434-220-080	No record of political party affiliation.
WAC 434-220-090	Partisan primary recounts.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-230-010 Sample ballots. Sample paper ballots shall be printed in substantially the same form as official ballots, but shall be a different color than the official ballot. Sample ballots (~~((for counties using electronic or mechanical voting systems))~~) shall be printed in a manner that makes them easily distinguishable from the official ballot. Sample ballots shall be available (~~((starting))~~) at least fifteen days prior to an election. Such sample ballots shall be made available through the office of the county auditor and at least one shall be available at all polling places on election day.

~~((Names of the candidates in each office to appear on the primary ballot shall be arranged on the sample ballot in the order provided by RCW 29A.36.121. The names of the candidates in each office to appear on the general election ballot shall be listed on the sample ballot in the order in which their names appear on the official ballot. State measures and local measures shall be in the same order as they appear on the official ballot.))~~

At any primary or election when a local voters' pamphlet is published which contains a full sample ballot, a separate sample ballot need not be printed.

Counties with populations of over five hundred thousand may produce more than one sample ballot for a primary or election, each of which lists a portion of the offices and issues to be voted on at that election. Sample ballots may be printed by region or area (e.g., legislative district, municipal, or other district boundary) of the county, provided that all offices and issues to be voted upon at the election appear(~~((s))~~) on at least one of the various sample ballots printed for such county. Each regional sample ballot shall contain all offices and issues to be voted upon within that region. A given office or issue may appear on more than one sample ballot, provided it is to be voted upon within that region. Sample ballots shall be made available and distributed to each polling place and to other locations within the appropriate region or area.

NEW SECTION

WAC 434-230-015 Ballot format. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes.

(3) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(4)(a) If the ballot includes a partisan office, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice-president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice-president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice-president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

(5) Counties may use varying sizes and colors of ballot cards if such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate absentee ballots, poll ballots, or provisional ballots.

(6) Ballots shall be formatted as provided in RCW 29A.36.170. Ballots shall not be formatted as stated in RCW 29A.04.008 (6) and (7), 29A.36.104, 29A.36.106, 29A.36.121, 29A.36.161(4), and 29A.36.191.

NEW SECTION

WAC 434-230-025 Order of offices. Measures and offices must be listed in the following order, to the extent that they appear on a primary or election ballot:

- (1) Initiatives to the people;
- (2) Referendum measures;
- (3) Referendum bills;
- (4) Initiatives to the legislature and any alternate proposals;
- (5) Proposed constitutional amendments (senate joint resolutions, then house joint resolutions);

- (6) Countywide ballot measures;
- (7) President and vice-president of the United States;
- (8) United States senator;
- (9) United States representative;
- (10) Governor;
- (11) Lieutenant governor;
- (12) Secretary of state;
- (13) State treasurer;
- (14) State auditor;
- (15) Attorney general;
- (16) Commissioner of public lands;
- (17) Superintendent of public instruction;
- (18) Insurance commissioner;
- (19) State senator;
- (20) State representative;
- (21) County officers;
- (22) Justices of the supreme court;
- (23) Judges of the court of appeals;
- (24) Judges of the superior court; and
- (25) Judges of the district court.

For all other jurisdictions, the offices in each jurisdiction shall be grouped together and listed by position number according to county auditor procedures.

NEW SECTION

WAC 434-230-035 Office format. (1) The name of each office must be printed on the ballot.

(2) The description "partisan office" must be printed either for each partisan office or as a heading above a group of partisan offices. The description "nonpartisan office" must be printed either for each office or as a heading above a group of nonpartisan offices.

(3) If the term of office is not a full term, a description of the term (e.g., short/full term, two-year unexpired term) must be printed with the office name.

(4) Following each list of candidates shall be a response position and a space for writing in the name of a candidate.

(5) Each office or position must be separated by a bold line.

(6) On a general election ballot in a year that president and vice-president are elected, each political party's candidates for president and vice-president shall be provided one vote response position for that party.

NEW SECTION

WAC 434-230-045 Candidate format. (1) For each office or position, the names of all candidates shall be listed together. If the office is on the primary election ballot, no candidates skip the primary and advance directly to the general election.

(2)(a) On the primary election ballot, candidates shall be listed in the order determined by lot.

(b) On the general election ballot, the candidate who received the highest number of votes in the primary shall be listed first, and the candidate who received the second highest number of votes in the primary shall be listed second.

(c) The political party that each candidate prefers is irrelevant to the order in which the candidates appear on the ballot.

(3) Candidate names shall be printed in a type style and point size that can be read easily. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include, but are not limited to, printing a smaller point size or different type style.

(4) For partisan office:

(a) If the candidate stated his or her preference for a political party on the declaration of candidacy, that preference shall be printed below the candidate's name, with parentheses and the first letter of each word capitalized, as shown in the following example:

John Smith

(Prefers Example Party)

(b) If the candidate did not state his or her preference for a political party, that information shall be printed below the candidate's name, with parentheses and the first letter of each word capitalized, as shown in the following example:

John Smith

(States No Party Preference)

(c) The party preference line for each candidate may be in smaller point size or indented.

(d) The same party preference information shall be printed on both primary and general election ballots.

(5) If the office is nonpartisan, only the candidate's name shall appear. Neither "nonpartisan" nor "NP" shall be printed with each candidate's name.

(6) The law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards, or other private organizations to be printed on the ballot.

NEW SECTION

WAC 434-230-055 Partisan primary. In a primary for partisan congressional, state or county office conducted pursuant to chapter 2, Laws of 2005 (Initiative 872):

(1) Voters are not required to affiliate with a political party in order to vote in the primary election. For each office, voters may vote for any candidate in the race.

(2) Candidates are not required to obtain the approval of a political party in order to file a declaration of candidacy and appear on the primary or general election ballot as a candidate for partisan office. Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate. A candidate's political party preference is not used to determine which candidates advance to the general election.

(3) Based on the results of the primary, the two candidates for each office who receive the most votes and who receive at least one percent of the total votes cast for that office advance to the general election. The primary election does not serve to nominate any political party's candidates, but serves to winnow the number of candidates down to a final list of two for the general election. Voters in the primary are casting votes for candidates, not choosing a political party's nominees. RCW 29A.36.191 does not apply since the predecessor statute, RCW 29A.36.190, was repealed in chapter 2, Laws of 2005.

(4) Chapter 2, Laws of 2005 repealed the prior law governing party nominations. Political parties may nominate candidates by whatever mechanism they choose. The primary election plays no role in political party nominations, and political party nominations are not displayed on the ballot.

(5) If dates, deadlines, and time periods referenced in chapter 2, Laws of 2005, conflict with subsequently enacted law, such as chapter 344, Laws of 2006, the subsequently enacted law is effective.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-230-060 Primary votes required for appearance on general election ballot. Following any ~~((nonpartisan))~~ primary, ~~((no))~~ a candidate's name shall be entitled to appear on the general election ballot ~~((unless))~~ if he or she receives the greatest or the next greatest number of votes for the office and additionally receives at least one percent of the total votes cast for the office.

~~((Following any partisan primary, no major political party~~

~~candidate's name shall be entitled to appear on the general election ballot unless he or she receives a plurality of votes cast for the candidates of his or her party for that office. The requirement in RCW 29A.36.191 that a candidate for partisan office receive at least one percent of the votes cast for that office in order to appear on the general election ballot is unenforceable based on *Libertarian Party v. Sam Reed*, Thurston County Superior Court No. 04-2-01974-2 (2004).)~~

NEW SECTION

WAC 434-230-085 Candidate who qualifies for more than one office. In the event a candidate, as a result of write-in votes in the primary, qualifies to appear on the general election ballot for more than one office, the candidate may notify the county auditor in writing within three days of certification of the primary of the single office for which he or she desires to appear on the general election ballot. If the candidate fails to notify the county auditor, the county auditor shall determine the single office for which the candidate shall appear on the general election ballot. Any void in candidacy for other positions thus created will be handled as provided by law.

NEW SECTION

WAC 434-230-095 When a candidate dies or is disqualified. The procedures in RCW 29A.28.021 allowing a political party to appoint a replacement candidate if the party's candidate dies or is disqualified do not apply. The predecessor statute, RCW 29A.28.020, was repealed by chapter 2, Laws of 2005 (Initiative 872).

NEW SECTION

WAC 434-230-100 Political party precinct committee officer.

(1) In even-numbered years, the election for the position of political party precinct committee officer must be held on the third Tuesday of August.

(2) Unlike candidates for public partisan office, candidates for precinct committee officer file and appear on the ballot as

members of a major political party. The election of precinct committee officer is an intraparty election. Candidates compete against other candidates from the same political party. The candidate of each political party who receives the most votes is declared elected. Precinct committee officers are not elected according to the top two primary system established by chapter 2, Laws of 2005 (Initiative 872).

(3) Unlike candidates for public office, the order in which candidates for precinct committee officer appear on the ballot is based on each candidate's political party. The political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the other political parties following according to the number of votes cast for their nominees for president at the last presidential election. Within each party, candidates shall be listed in the order determined by lot.

(4) If no candidate files for political party precinct committee officer, the position appears on the ballot with space for a write-in. There is no special filing period, the political party does not appoint a candidate, and the election does not lapse. If no candidate is elected, the party may fill the position by appointment, pursuant to RCW 29A.28.071.

(5)(a) The position of political party precinct committee officer must appear following all measures and public offices.

(b) The heading must state, "election of political party precinct committee officer."

(c) The following explanation must be provided before the list of candidates: "Precinct committee officer is a position in each major political party. For this office only: If you consider yourself a democrat or republican, you may vote for a candidate of that party."

(d)(i) If all candidates are listed under one heading, the applicable major political party affiliation of either "democratic party candidate" or "republican party candidate" must be printed under each candidate's name. The first letter of each word must be capitalized, as shown in the following example:

John Smith

Democratic Party Candidate

The race must explain, "for a write-in candidate, include party."

(ii) If candidates are listed under a major political party heading, the applicable heading of either "democratic party candidates" or "republican party candidates" must be printed above each group of candidates. The first letter of each word must be capitalized. Space for a write-in must be provided for each political party heading.

(6) A voter may vote for only one candidate for precinct committee officer. If a voter votes for more than one candidate, the votes must be treated as overvotes. For the limited purpose of voting in a precinct committee officer election, a voter affiliates with a major political party when he or she votes for a candidate of that party.

NEW SECTION

WAC 434-230-110 President and vice-president of the United States. (1) When the race for president and vice-president appears on a general election ballot, the candidates for these offices must be paired together.

(2) The full name of the political party, rather than an abbreviation, must be provided for each pair of candidates, with a designation that these candidates are the nominees of the party. The first letter of each word in the political party name must be capitalized. For example:

Example Party Nominees

(3) If candidates are not nominees of a political party and are running as independent candidates, that description must be provided for the pair of candidates. The first letter of each word in the description must be capitalized. For example:

Independent Candidates

(4) The order that candidates appear on the ballot is based on their political party. The political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the candidates of the other political parties following according to the votes cast for their nominees for president at the last presidential election. Candidates of parties that did not have nominees in the last presidential election, and independent candidates, follow in the order of their qualification with the secretary of state.

NEW SECTION

WAC 434-230-120 Ranked choice voting. If a charter county elects candidates for county office by ranked choice voting, and if the charter specifically grants political parties the authority to determine which candidates for partisan office may run as candidates of the party, the county auditor may modify the requirements of this chapter in order to accommodate the requirements of a ranked choice voting election.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-230-020	Placement of state ballot measures.
WAC 434-230-040	Candidate's political party designation--Primary to general.
WAC 434-230-050	Candidate nominated by two or more political parties or for two or more offices.
WAC 434-230-080	Judicial ballots--Form.
WAC 434-230-150	Ballot uniformity.
WAC 434-230-160	Poll-site voting instructions.
WAC 434-230-170	Ballot form.
WAC 434-230-190	Paper ballot uniformity.
WAC 434-230-200	Paper ballot instructions.
WAC 434-230-210	Paper ballots--Ballot form.
WAC 434-230-220	Same party designations used for primary and general elections.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-250-040 Instructions to voters. (1) ~~((In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning))~~ Instructions that accompany an absentee ballot must ((also)) include:

(a) ~~How to ((correct a ballot by crossing out the incorrect vote and voting the correct choice))~~ cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Notice that, if a voter has signed or otherwise identified himself or herself on a ballot, the ballot will not be counted;

(d) An explanation of how to complete and sign the affidavit on the return envelope;

(e) An explanation of how to make a mark, witnessed by two other people, if unable to sign the affidavit;

(f) An explanation of how to place the ballot in the security envelope and place the security envelope in the return envelope;

(g) An explanation of how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(h) Notice that postage is required, if applicable; ~~((and))~~

(i) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated deposit site no later than election day; ~~((and))~~

(j) ~~((How a voter can))~~ An explanation of how to learn about the locations, hours, and services((7)) of voting centers and ballot deposit sites, including the availability of accessible voting equipment((7));

County auditors may use existing stock of instructions appearing on absentee ballot ~~((instructions))~~ envelopes until December 1, 2008;

(k) For a primary election that includes a partisan office, a notice on a separate insert printed on colored paper explaining:

"Washington has a new primary. You do not have to pick a party. In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the August primary will advance to the November general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(l)(i) For a general election that includes a partisan office, the following explanation:

"Washington has a new election system. In each race for partisan office, the two candidates who receive the most votes in the August primary advance to the November general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice-president appear on the general election ballot, the following must be added to the statement required by (1)(i) of this subsection:

"The election for president and vice-president is different. Candidates for president and vice-president are the official nominees of their political party."

(m) Any other information the county auditor deems necessary.

(2) Instructions that accompany a special absentee ballot must also include:

(a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and

(b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-250-050 ((~~Ballot materials~~)) Envelopes. ((~~In addition to the instructions and in addition to materials required by chapters 29A.36 and 29A.40 RCW, each~~)) Absentee ballots must be accompanied by the following:

(1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and the following oath with a place for the voter to sign, date, and write his or her daytime phone number:

I do solemnly swear or affirm under penalty of perjury
that:
I am a citizen of the United States;

I am a legal resident of the state of Washington;
I will be at least 18 years old on or before election day;
I am not presently denied my voting rights as a result of
being convicted of a felony;
I have not been judicially declared mentally incompetent;
I have not already voted in this election; and
I understand it is illegal to cast a ballot or sign a ballot
envelope on behalf of another voter.

Attempting to vote when not qualified, attempting to vote
more than once, or falsely signing this oath is a felony
punishable by a maximum imprisonment of five years, a
maximum fine of \$10,000, or both.

Signature_____Date_____

The return envelope must include space for witnesses to sign.
The return envelope must conform to postal department
regulations.

County auditors may use existing stock of absentee envelopes
until December 1, 2008.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05,
effective 9/19/05)

WAC 434-250-110 Processing of absentee ballots. (1) Prior to
initial processing of ballots, the county auditor shall notify the
county chair of each major political party of the time and date on
which absentee processing shall begin, and shall request that each
major political party appoint official observers to observe the
processing and tabulation of absentee ballots. If any major
political party has appointed observers, such observers may be
present for initial processing, final processing, or tabulation, if
they so choose, but failure to appoint or attend shall not preclude
the processing or tabulation of absentee ballots.

(2) In counties tabulating absentee ballots on an electronic
vote tallying system, the canvassing board or its representatives
may perform initial processing of absentee ballots upon their
return. ~~((In counties tabulating absentee ballots by hand, the
inner security envelope may not be opened until after 8:00 p.m. on
election day. Following initial processing,))~~ All absentee ballots
must be kept in secure storage until final processing. Secure
storage must employ the use of numbered seals and logs, or other
security measures which will detect any inappropriate or
unauthorized access to the secured ballot materials when they are
not being prepared or processed by authorized personnel. The
county auditor must ensure that all security envelopes and return
envelopes are empty, either by a visual inspection of the punched
hole to confirm that no ballots or other materials are still in the
envelopes, or by storing the envelopes with a tie, string, or other
object through the holes.

(3) Final processing may begin after 7:00 a.m. on the day of the election.

(4) Tabulation may begin after 8:00 p.m. on the day of the election.

(5) In counties tabulating ballots on an optical scan vote tallying system, the vote tallying system must reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) If inspection reveals that a ballot must be duplicated in order to be read correctly by the vote tallying system, the ballot must be duplicated.

NEW SECTION

WAC 434-250-150 Ranked choice voting. If a charter county elects candidates for county office by ranked choice voting, and if the charter specifically grants political parties the authority to determine which candidates for partisan office may run as candidates of the party, the county auditor may modify the requirements of this chapter in order to accommodate the requirements of a ranked choice voting election.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-250-310 Notice of elections by mail. (1) A jurisdiction requesting that a special election be conducted entirely by mail, as authorized by RCW 29A.48.020, may include the request in the resolution calling for the special election, or may make the request by a separate resolution. Not less than forty-seven days prior to the date for which a mail ballot special election has been requested, the county auditor shall inform the requesting jurisdiction, in writing, whether the request is granted and, if not granted, the reasons why.

(2) In the event that a primary is to be conducted by mail, the auditor must notify the jurisdiction involved not later than seventy-nine days before the primary date.

(3) (~~In addition to the information required in the notice of election published pursuant to RCW 29A.52.351 and 29A.52.311,~~) A

county auditor conducting an election by mail, including a county auditor that conducts every election by mail, must ~~((also))~~ state:

(a) The election will be conducted by mail ~~((and regular polling places will not be open))~~;

(b) The precincts that are voting by mail if it is only specific precincts rather than the entire county;

(c) The location where voters may obtain replacement ballots;

(d) Whether return postage is required;

(e) The dates, times and locations of designated deposit sites and voting centers; and

(f) If the county auditor does not conduct all elections by mail, the fact that regular polling places will not be open.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-253-020 Polling place--Election supplies. Polling places shall be provided, at a minimum, with the following supplies at every election:

(1) Precinct list of registered voters or a poll book, which shall include suitable means to record the signature and address of the voter;

(2) Inspector's poll book;

(3) Required oaths/certificates for inspectors and judges;

(4) Sufficient number of ballots as determined by election officer;

(5) Ballot containers;

(6) United States flag;

(7) Voting instruction signs;

(8) Challenge and provisional ballots and envelopes;

(9) Cancellation cards due to death;

(10) Voting equipment instructions;

(11) Procedure guidelines for inspectors and judges and/or precinct election officer guidebooks;

(12) Keys and/or extra seals;

(13) Pay voucher;

(14) Ballots stub envelope;

(15) Emergency plan of action;

(16) Either sample ballots or voters' pamphlets;

(17) HAVA voter information poster;

(18) A sign listing the date of the election and the hours of voting on election day; and

(19) Voter registration forms(~~;~~ and

~~(20) For partisan primaries in counties using physically separate ballots, an "unvoted ballots" container with a numbered seal).~~

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

WAC 434-253-025 Polling place--Items to be posted. The following items must be posted or displayed at each polling place while it is open:

(1) United States flag;

(2) HAVA voter information poster;

(3) A sign listing the date of the election and the hours of

voting on election day;

(4) Voting instructions printed in at least 16 point bold type;

(5) Either sample ballots or voters' pamphlets;

(6) Voter registration forms;

(7) Election materials in alternative languages, if so required by the Voting Rights Act (42 U.S.C. 1973aa et seq.);
(~~and~~)

(8) (a) For a primary election that includes a partisan office, the same notice provided to absentee voters by WAC 434-250-040 (1)(k);

(b) For a general election that includes a partisan office, the same notice provided to absentee voters by WAC 434-250-040 (1)(l); and

(9) Any other items the county auditor deems necessary.

NEW SECTION

WAC 434-253-330 Ranked choice voting. If a charter county elects candidates for county office by ranked choice voting, and if the charter specifically grants political parties the authority to determine which candidates for partisan office may run as candidates of the party, the county auditor may modify the requirements of this chapter in order to accommodate the requirements of a ranked choice voting election.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-235 Recertification of assistant election administrators as election administrators. Any person who is certified as an assistant election administrator may become certified as an election administrator upon completion of the following:

(1) Two years service in an election ~~((management))~~
administration position(~~(, as defined by the county auditor or the~~
~~state director of elections))~~; and

(2) Minimum of forty hours participation in conferences and workshops sponsored by those organizations listed in WAC 434-260-220(4).

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-261-086 Statewide standards on what is a vote. (1) Pursuant to 42 U.S.C. § 15481(a)(6) and *Bush v. Gore*, 531 U.S. 98 (2000), the following standards determine whether irregular marks on a ballot constitute a valid vote that may be counted.

(a) Target area. Any marks made in the target area shall be counted as valid votes. Any marks made outside of the target area will only be valid if they fulfill the consistent pattern requirements in (b) of this subsection. Exceptions:

- (i) Obvious stray marks.
- (ii) Hesitation marks.
- (iii) Parts of written notes.

(iv) Corrected votes, according to the instructions printed on the ballot or written instructions provided by the voter, which may include arrows, circles, and written words.

(b) Consistent pattern. Marks made outside of the target area shall only be counted as valid votes if a consistent pattern of marks is used throughout the whole ballot. This means that all races and issues for which the voter has indicated a choice must have the same mark. If some marks are in the target area and some are not, but the same type of mark is used throughout the whole ballot, they shall all be counted as valid votes.

(c) Corrected votes.

(i) If ((more than one target area is marked, it is not an overvote if)) the voter has followed the instructions for correcting a vote ((and marked another choice)), the stricken vote shall not be counted. If a second choice is marked, it shall be counted as a valid vote;

(ii) If a second choice is not marked, the race shall be considered undervoted;

(iii) If the voter has marked two target areas and placed an 'X' over one of the marked areas, the choice without the 'X' shall be counted as a valid vote.

(d) Not a correction. If the voter has both marked a choice correctly and *also* placed an 'X' in the same target area, but has not marked a second target area as if attempting to correct the vote, it shall be counted as a valid vote.

(e) Written instructions. If the voter has attempted to correct a vote and provides written instruction on his or her intent, it shall be counted as the voter instructed. Written instruction includes words, circles, or arrows.

(f) Identifying marks. Ballots that have a legible signature, address sticker or address stamp anywhere on the ballot, other than a write-in line, must be rejected. Initials or illegible signatures do not disqualify a ballot.

(g) Overvotes. Races or issues that have more target areas marked than are allowed are overvotes. No votes for that race or issue shall be counted.

(h) No bubble. If a name is written on a write-in line, it shall be counted as a valid write-in vote regardless of whether the corresponding target area is marked.

(i) Already on the ballot. If the name of a candidate who is already printed on the ballot is written in, that vote shall not be tallied as an overvote, but shall be counted as a valid vote for the printed candidate. This applies even if both target areas are marked or no target areas are marked.

(j) Name variations. If a write-in vote is cast for a *declared* write-in candidate using a commonly recognizable nickname or spelling variation, it shall be counted as a valid vote for that candidate.

(k) Mystery write-in. If the write-in target area is marked, but no name is written on the line, it shall not be counted as a valid vote, even though it may be tallied as a write-in vote by the tabulation system.

(l) Mystery write-in with a candidate. If a candidate's target area is marked, *and* the write-in target area is marked but no name is written on the line, it shall not be tallied as an overvote, but shall be counted as a valid vote for the printed candidate.

(m) Name combinations. If a write-in vote is cast for a candidate with a combination of names already on the ballot, it shall NOT be counted as a vote for either printed candidate, but rather shall be counted as a valid vote for the name as written.

(n) Write-in overvote. If a candidate's target area is marked and something other than that candidate's name is written in the write-in response area, it shall be counted as an overvote and not a valid vote for any candidate. This applies whether or not the target area for the write-in is marked.

(o) Not eligible. A write-in vote for a race that does not appear on the ballot is for a race on which the voter is not eligible to vote, and shall not be counted.

Exception: If a provisional ballot has been cast and the voter has written in an office or measure that is not on the ballot, that vote shall be counted if it is determined, based on the voter's registration, that he or she is eligible to vote for that office or measure.

(p) Write-in in the wrong place. A write-in vote for a race appearing elsewhere on the ballot shall be counted as a valid vote, as long as all other requirements are fulfilled and the office, position number and political party, if applicable, are clearly indicated.

(q) Messy marks. When otherwise valid votes marked for a candidate partially extend into the response area of another candidate, it shall be counted as a vote if most of the mark is in the proper area and intent can easily be discerned.

(r) Pattern of partisan voting. Voter intent in any single contest shall not be determined based on a pattern of partisan

voting on the ballot.

(s) Anything else. Voter intent on any questionable marks not explicitly falling within the parameters of the rules in this manual must be determined by county canvassing boards, operating under all applicable laws of the state of Washington and the rules of the canvassing board manual.

(2) The secretary of state shall publish an illustrated version of these standards in each optical scan and digital scan voting system used in the state. The secretary of state shall distribute the illustrated version to each county canvassing board and post it on the web site.

(3) The secretary of state shall periodically review and update the manual as necessary, and seek input from county canvassing boards and other interested parties to ensure that the standards remain current and comprehensive.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-262-031 Rejection of ballots or parts of ballots.

(1) The disposition of provisional ballots is governed by WAC 434-253-047. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

(2) Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(a) Where ~~((two ballots are found folded together, or where))~~ a voter has already voted ~~((more than))~~ one ballot;

(b) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;

(c) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;

(d) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

(e) Where the voter has voted for more candidates for an office than are permissible~~((7~~

~~((f) In the case of a partisan primary, where the voter has voted for a write-in candidate for partisan office who has not filed a write-in declaration of candidacy, thereby affiliating with a major party.~~

~~((3) For physically separate ballots in a partisan primary:~~

~~((a) If more than one ballot is returned but only one ballot is voted, the voted ballot must be counted.~~

~~((b) When a voted nonpartisan ballot and a voted party ballot are both returned, and the nonpartisan section of the party ballot was not voted, the votes from both ballots must be duplicated onto a blank party ballot and counted.~~

~~((c) When a voted nonpartisan ballot and a voted party ballot are both returned, and nonpartisan races and ballot measures were voted on both ballots, the nonpartisan and ballot measure votes that are the same on each ballot and the partisan votes must be duplicated onto a blank party ballot and counted.~~

~~((d) When more than one voted party ballot is returned, the partisan votes may not be counted but the nonpartisan and ballot measure votes that are the same on both ballots must be duplicated onto a blank nonpartisan ballot and counted)) .~~

NEW SECTION

WAC 434-262-075 Election of political party precinct committee officers. (1) The election of political party precinct committee officers is not conducted according to a top two primary established by chapter 2, Laws of 2005 (Initiative 872). The candidate of each political party who receives the most votes in the August primary election is declared elected.

(2) RCW 29A.80.051 includes a requirement that, to be declared elected, a candidate for precinct committee officer must receive at least ten percent of the number of votes cast for a candidate of the same party who received the most votes in the precinct. This requirement for election is not in effect because candidates for public office do not represent a political party.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-160 Write-in-voting--Voter intent. (1) In all cases of write-in votes the canvassing board shall exercise all reasonable efforts to determine the voter's intent. ((Write-in votes are to be counted where abbreviations are used for office, position, or political party.)) Write-in votes in the general election are not to be counted for any person who filed for the same office as either a regular or write-in candidate at the preceding primary and failed to qualify for the general election. If a write-in declaration of candidacy has been filed, the voter need only write in that candidate's name in order for the vote to be counted; the candidate's party preference does not impact whether the write-in vote shall be counted. If no declaration of write-in candidacy has been filed, the voter must write in the name of the candidate ((, the political party, if applicable,)) and, if the office ((and/)) or position number cannot be determined by the location of the write-in on the ballot, the office and position number, in order for the write-in vote to be counted.

(2)(a) If a write-in candidate for partisan office does not file a write-in declaration of candidacy but does qualify for the general election ballot, the candidate has not stated a preference for a political party and therefore shall have "(states no party preference)" printed on the general election ballot.

(b) If a write-in candidate for partisan office files a write-in declaration of candidacy and qualifies for the general election ballot, the party preference stated on the write-in declaration of candidacy, if any, shall be printed on the general election ballot.

NEW SECTION

WAC 434-262-210 Ranked choice voting. If a charter county elects candidates for county office by ranked choice voting, and if the charter specifically grants political parties the authority to determine which candidates for partisan office may run as candidates of the party, the county auditor may modify the requirements of this chapter in order to accommodate the requirements of a ranked choice voting election.

NEW SECTION

WAC 434-264-055 Machine recount of votes cast on optical scan or digital scan ballots. (1) In a machine recount of votes cast on optical scan or digital scan ballots, the tabulating equipment must be programmed to flag or outstack all ballots that include an undervoted office or ballot measure subject to the recount.

(2) All ballots that include an undervoted office or ballot measure that is subject to a recount must be inspected a second time to confirm that no vote was cast.

(3) If the inspection detects a vote cast that was not correctly counted by the tabulating equipment, the county auditor shall refer the ballot to the county canvassing board to determine voter intent according to the statewide standards on what is a vote. The county canvassing board may delegate duplication of the ballots consistent with RCW 29A.60.140.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

WAC 434-324-113 Voter registration list maintenance. In addition to conducting searches to identify felons, duplicate registration records, and deceased voters as outlined in this chapter, the following applies:

(1) Each even-numbered year, maintenance of the voter registration list, as required by RCW 29A.08.605, must be completed ninety days prior to the date of the primary in that year. If a county conducts all elections by mail and receives address change information from each ballot mailing, additional list maintenance is not required. The voter registration list maintenance program is complete upon mailing the required notices. Counties have discretion to also run the voter registration list maintenance in odd-numbered years.

(2) If, at any time, the secretary finds that a registered voter does not possess the qualifications required by state law to exercise his or her right to vote for reasons not listed in this chapter, the secretary must refer such information to the appropriate county auditor and county prosecutor.

(3) If, at any time, the auditor finds that a registered voter does not possess the qualifications required by state law to exercise his or her right to vote for reasons not listed in this chapter, the auditor must notify the county prosecutor.

AMENDATORY SECTION (Amending WSR 06-11-042, filed 5/10/06, effective 6/10/06)

WAC 434-335-040 Voting system requirements. (1) No voting device or its component software may be certified by the secretary of state unless it:

- (a) Secures to the voter secrecy in the act of voting;
- (b) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;
- (c) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (d) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for President and Vice-President of the United States;
- (e) Produces a machine countable and human readable paper record for each vote that may be accepted or rejected by the voter before finalizing his or her vote. The paper record of an electronic vote may not be removed from the device by the voter. If the voting device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter; and
- (f) Has been tested and approved by the appropriate independent testing authority approved by the United States election assistance commission(, ~~and~~

~~(g) For a partisan primary, prevents the counting of votes for candidates of more than one political party)).~~

(2) No vote tabulating system may be certified by the secretary of state unless it:

- (a) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;
- (b) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;
- (c) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each ballot measure on the ballot in that precinct;
- (d) Produces precinct and cumulative totals in printed form; and
- (e) Produces legislative and congressional district totals for statewide races and issues in electronic and printed form.

(3) A vote tabulating system must:

- (a) Be capable of being secured with lock and seal when not in use;
- (b) Be secured physically and electronically against unauthorized access;

(c) Not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web. A network may be used as an internal, integral part of the vote tabulating system but that network must not be connected to any other network, the internet, or the world wide web; and

(d) Not use wireless communications in any way.

(4) Transfer of information from a remote tabulating system may be made by telephonic transmission only after the creation of a disk, paper tape, or other physical means of recording ballot results.

(5) The source code of electronic voting system software that has been placed in escrow must be identical to the source code of software that has been tested and certified by the federal independent testing authority and installed in the county. The applicant must place in escrow both the human-readable source code and the working or compiled version. In lieu of placing them in escrow, the source code and the working or compiled version may be deposited with the national software reference library. The software may be verified by matching the system's digital software signatures with the digital signatures the elections assistance commission has on file, when available.

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

WAC 434-335-445 The preparation of logic and accuracy test decks. (1) Each county shall produce a test deck of ballots to be used in the official logic and accuracy test to verify that the vote tabulating system is programmed to correctly count the ballots.

(2) The pattern to mark the test deck shall begin by giving the first candidate in each race one vote, the second candidate in each race two votes, the third candidate in each race three votes, etc. Once the pattern is completed for each race and issue, each remaining precinct or ballot style must be tested by using a minimum of one ballot that has a first choice marked for each race and issue. Additional votes may be added to ensure all responses for a race or issue have unique results. Another pattern may be used if it meets the requirements outlined in this section and is approved by the secretary prior to marking the test deck.

(3) The test deck must also test that the vote tabulating system is programmed to accurately count write-in votes, overvotes and blank ballots. The test deck must also include a sampling of all ballots that will be used during the election, including ballot on demand, alternative language ballots, and ballots marked with an electronic ballot marker.

~~((4) In a partisan primary:~~

~~(a) When a consolidated ballot is used, the test deck must test that the partisan and nonpartisan votes are counted properly for situations where just one party is selected, no party is selected, and both parties are selected; and~~

~~(b) When separate ballots are used, a test deck for each party must be prepared in addition to a test deck for nonpartisan races.))~~

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state((+)

~~((a) For candidates who filed during the regular filing period,))~~ within seven calendar days after filing their declaration of candidacy((+)

~~((b) For candidates who filed during a special filing period, or were selected by a political party pursuant to either RCW 29A.52.010 or 29A.24.140, within seven calendar days after the close of the special filing period or selection by the party)).~~

(2) For ballot measures, including initiatives, ~~((referendums))~~ referenda, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: Within ten business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, within ten business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot:

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, not later than the date the committee submits its initial argument to the secretary of state;

(c) Arguments for or against a ballot measure, no later than twenty calendar days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, by no later than fourteen calendar days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late

filing when, in the secretary's judgment, it is reasonable to do so.

NEW SECTION

WAC 434-381-200 Political party preference information. If a state voters' pamphlet includes a race for partisan office, the pamphlet must include an explanation that each candidate for partisan office may state a political party that he or she prefers, and that a candidate's preference does not imply that the candidate is nominated or endorsed by the party or that the party approves of or associates with that candidate. The pamphlet must also explain that a candidate can choose to not state a political party preference.